

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Todd O. Dunn And Juanita W. Dunn

Case No. 09-81835

Chapter 13

Social Security No. xxx-xx-6577 and xxx-xx-1972
Address: 4103 Helena Moriah Road, ,Rougemont, NC 27572-

Debtors

OBJECTION TO CLAIM

NOW COME the Debtors above-named, through counsel, pursuant to 11 U.S.C. §502 and Bankruptcy Rule 3007, who respectfully object to the proof of claim filed by the creditor EMC MORTGAGE CORPORATION and dated November 5, 2009, for the following reasons:

The Proof of Claim filed by EMC Mortgage Corporation includes \$300.00 for "Bankruptcy post-petition, pre-confirmation legal fees & expenses". The Proof of Claim does not include evidence that this note has been accelerated, which is a condition of the Note for the allowance of attorney's fees. Further, the Proof of Claim does not include a Notice of Assessed Fees pursuant to NC § 45-91. Additionally, based both on this omission or any other justification, \$300.00 is not a reasonable fee.

WHEREFORE, the Debtors pray that the Court enter an Order reducing the claim to the sum of \$5,022.59 .

Dated: December 22, 2009

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz

Edward Boltz

N.C. State Bar No. 23003

6616-203 Six Forks Road

Raleigh, N.C. 27615

(919) 847-9750

claimomd.wpt (rev. September 2, 2009)

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CERTIFICATE OF SERVICE

I, Renee Nolte, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on December 22, 2009. I served copies of the foregoing **OBJECTION TO CLAIM** electronically or, when unable, by regular first-class U.S. mail, addressed to the following parties:

EMC MORTGAGE CORPORATION

Attn: Managing Agent

Post Office Box 293150

Lewisville, TX 75029-

Sean Corcoran

Attorney for EMC MORTGAGE CORPORATION

c/o Brock & Scott

5121 Parkway Plaza Drive, Ste 300

Charlotte, NC 28217-

U.S. Bankruptcy Administrator

Richard M. Hutson, II

Chapter 13 Trustee

/s Renee Nolte

Renee Nolte